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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

CELA

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 13-02

DATE REFERRED: February 27, 2013

LAST RESPONSE RECEIVED: N/A

DATE ACTIVATED: April 8, 2013

ELECTION CYCLE: 2008

EXPIRATION OF SOL: April 16, 2012 (Earliest)

February 15, 2014 (Latest)

SOURCE:

Audit Referral

RESPONDENTS:

**RIGHTMARCH.COM PAC INC and William
Greene in his official capacity as treasurer**

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 434(b)

INTERNAL REPORTS CHECKED:

**Audit Documents
Disclosure Reports**

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Audit Division referred this matter to the Office of General Counsel following an audit of RIGHTMARCH.COM PAC INC and William Greene in his official capacity as treasurer ("Rightmarch"). See Audit Referral 13-02 (Rightmarch). The audit, which was conducted pursuant to 2 U.S.C. § 438(b), covered activity between January 1, 2007, through December 31, 2008. Final Audit Report A09-25 at 4-5 (Rightmarch). There, the Commission found that Rightmarch misstated its financial activity in 2007 and 2008. *Id.* On the basis of the Final Audit Report, we recommend that the Commission open a Matter Under Review, find

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1 reason to believe that Rightmarch violated 2 U.S.C. § 434(b), and enter into pre-probable cause
2 conciliation.

3 **II. BACKGROUND**

4 Rightmarch is a non-connected, multi-candidate committee that first filed its statement of
5 organization in 2003. During the audit, the Commission compared Rightmarch's reported
6 financial activity with its bank records. AR 13-02 at 3. Based on this review, the Commission
7 found that for 2007 Rightmarch understated its reported receipts and ending cash-on-hand by
8 \$23,940 and \$16,750, respectively. *Id.* The Commission also found that in 2008 Rightmarch
9 understated reported disbursements and ending cash-on hand by \$9,889 and \$6,625, respectively.
10 *Id.*¹

11 In response to the Interim Audit Report, Rightmarch agreed with the Audit Division's
12 conclusion that it had misstated its financial activity and stated that it would file amended
13 disclosure reports. AR 13-02 at 4-5. Similarly, in response to the Draft Final Audit Report,
14 Rightmarch again concurred that it misstated its activity and would work with the Audit staff to
15 file amended reports. *Id.* After the Final Audit Report was issued, Rightmarch consulted with
16 Audit about amending its reports, but Rightmarch has not yet amended its reports.

17 The Audit Division referred this matter to this Office on February 27, 2013. On March 4,
18 2013, this Office notified Rightmarch of the referral in accordance with the Commission's policy

¹ The understated reported disbursements of \$9,889 is the net of unreported disbursements (\$15,563); the erroneous reporting in 2008 of a disbursement that was actually made in 2009 (\$5,000); reporting of disbursements not supported by check or debit (\$826); and an unexplained difference (\$152). See AR 13-02 at 4.

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1 regarding notification in non-complaint generated matters. 74 Fed. Reg. 38617 (Aug. 4, 2009).

2 Rightmarch did not respond to the Commission's notification.²

3 **III. FACTUAL AND LEGAL ANALYSIS**

4 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires treasurers
5 to file reports disclosing the amount of cash-on-hand at the beginning and end of each reporting
6 period; the total amount of receipts for the reporting period and for the calendar year; and the
7 total amount of disbursements for the reporting period and for the calendar year. See 2 U.S.C.
8 § 434(b)(1), (2), (4). As the Commission found in the Final Audit Report, in 2007 Rightmarch
9 understated receipts by \$23,940 and understated ending cash-on-hand by \$16,750; in 2008
10 Rightmarch understated disbursements by \$9,889 and understated ending cash-on-hand by
11 \$6,625. Therefore, we recommend that the Commission find reason to believe that Rightmarch
12 violated 2 U.S.C. § 434(b).

13 **IV. CONCILIATION**

14 We recommend that the Commission enter into conciliation with Rightmarch prior to a
15 finding of probable cause to believe that the Act has been violated.

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18 See Attachment 3.
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² After receiving no response to the referral notification, the Office of General Counsel made additional attempts to communicate with the treasurer concerning whether a response was forthcoming but was unsuccessful in reaching him.

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V. RECOMMENDATIONS

1. Open a MUR;
2. Find reason to believe that RIGHTMARCH.COM PAC INC and William Greene in his official capacity as treasurer violated 2 U.S.C. § 434(b);
3. Approve the attached Factual and Legal Analysis;
4. Enter into conciliation with RIGHTMARCH.COM PAC INC and William Greene in his official capacity as treasurer prior to a finding of probable cause to believe;
- 5.
6. Approve the appropriate letter.

Anthony Herman
General Counsel

6-6-13
Date

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Kathleen M. Guith
Deputy Associate General Counsel for Enforcement

Susan L. Lebeaux
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Assistant General Counsel

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Attachments:

1. Audit Referral

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Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of RMC's reported financial activity with its bank records revealed misstatements for 2007 and 2008. For 2007, RMC understated reported receipts and ending cash-on-hand by \$23,940 and \$16,750, respectively. For 2008, RMC understated reported disbursements by \$9,889 and ending cash-on-hand by \$6,625. In its response to the Interim Audit Report, RMC indicated that it agreed with the Audit staff conclusion and would file amended disclosure reports to correct the misstatements. To date, no amendments have been filed. (For more detail, see p. 4.)

In its response to the Draft Final Audit Report, RMC concurred that it had misstated its activity and noted it would work with the Audit staff to file amended disclosure reports. To date, no amendments have been filed.

The Commission approved the finding that RMC misstated receipts and disbursements for calendar years 2007 and 2008.

Legal Standard

Contents of Reports. Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and
- certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled reported financial activity with bank records for calendar years 2007 and 2008. The following charts outline the discrepancies for beginning cash balances, receipts, disbursements and ending cash balances for each year. Succeeding paragraphs address the reasons for the misstatements.

2007 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2007	\$11,070	\$9,161	\$1,909 Overstated
Receipts	\$481,887	\$505,827	\$23,940 Understated
Disbursements	\$474,689	\$479,970	\$5,281 Understated
Ending Cash Balance @ December 31, 2007	\$18,268	\$35,018	\$16,750 Understated

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The understatement of receipts resulted from the following:

- Receipts deposited to operating account not reported \$ 22,208
- Unexplained difference 1,732
- Understatement of Receipts** \$ 23,940

The \$16,750 understatement of the ending cash-on-hand resulted from the misstatements described above, as well as discrepancies in opening cash-on-hand and disbursements.

2008 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2008	\$18,268	\$35,018	\$16,750 Understated
Receipts	\$179,084	\$178,848	\$236 Overstated
Disbursements	\$188,794	\$198,683	\$9,889 Understated
Ending Cash Balance @ December 31, 2008	\$8,558	\$15,183	\$6,625 Understated

The understatement of disbursements resulted from the following:

- Disbursements not reported \$ 15,563
- Fundraising fee paid in 2009, reported in 2008 (5,000)
- Fees reported but not supported by check or debit (826)
- Unexplained difference 152
- Net Understatement of Disbursements** \$ 9,889

The \$6,625 understatement of the ending cash-on-hand resulted from the misstatements described above, as well as discrepancies in opening cash-on-hand and receipts.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the misstatements with RMC representatives and provided copies of relevant schedules.

The Audit staff recommended that RMC:

- amend its reports to correct the misstatements noted above; and
- amend its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment.

Further, RMC should reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may affect the adjustment recommended by the Audit staff.

C. Committee Response to Interim Audit Report

In its response to the Interim Audit Report, RMC stated that it agreed with the auditors' conclusions with regards to the misstatement of financial activity and would comply with the Audit staff's recommendation to amend its disclosure reports. To date, RMC has not filed any amendments.

D. Draft Final Audit Report

The Draft Final Audit Report noted that RMC had not amended its reports to correct the misstatements.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, RMC concurred that it had misstated its activity and noted it would work with the Audit staff to file amended disclosure reports. To date, RMC has not filed any amendments.

Commission Conclusion

On October 18, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that RMC misstated its financial activity for calendar years 2007 and 2008.

The Commission approved the Audit staff's recommendation.